

## Annexure EDR - 27

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**From:** McMullan, Kate < >  
**Sent:** Tuesday, 27 October 2020 3:06 PM  
**To:** Scott Tredwell  
**Cc:** PID; Sia Lagos  
**Subject:** RE: PRIVATE AND CONFIDENTIAL [SEC=OFFICIAL:Sensitive]

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### OFFICIAL:Sensitive

Hi Scott,

Confirming your email has been received - with my thanks.

Kind regards  
Kate

**From:** Scott Tredwell < >  
**Sent:** Tuesday, 27 October 2020 3:01 PM  
**To:** McMullan, Kate < >  
**Cc:** PID <PID@apsc.gov.au>; Sia Lagos < >  
**Subject:** RE: PRIVATE AND CONFIDENTIAL

### UNCLASSIFIED

Dear Ms McMullan,

I refer to your email of 20 October 2020 below and provide the following responses by way of assistance.

1. Since 1 December 2016, the Chief Executive Officer and Principal Registrar of the Federal Court has made notifications regarding employment decisions in the Public Service Gazette pursuant to section 34 of the *Commissioners Directions 2016*. None of the employment decisions to which you refer was an employment decision for which notification was required pursuant to section 34, and hence no notification was provided.
2. There is no specific document that identifies when a National Judicial Registrar position is classified as SES1 or EL2. The classification is determined by regard to the additional responsibilities that a person within a specific position undertakes, such as leading a specialist national practice area or the fulfilling of a statutory role and leadership responsibilities in a particular location. SES1 positions in the legal area cover District Registrars in Victoria and Adelaide, as well as the Registrars who head the Native Title and Intellectual Property National Practice Areas. Staff are informed of the classification of these positions, prior to those positions being filled. Where these positions are filled following internal and external advertising, this advertising would include the classification of these positions. All advertised positions are posted, at the time, on the Federal Court internet and intranet sites.

In some instances, the duties performed by persons within the EL2 classification have been beyond the scope of the EL2 Position Description. The Federal Court has used Individual Flexibility Agreements (IFAs) to appropriately remunerate those officers, as encouraged by the current Bargaining Policy.

If you have any queries, or I can assist further, please let me know.

Kind regards

Scott.

Scott Tredwell | Acting Deputy Principal Registrar

Federal Court of Australia | Harry Gibbs Commonwealth Law Courts, 119 North Quay, Brisbane, 4000 |  
p. | m. | e.

From: McMullan, Kate < >  
Sent: Tuesday, 20 October 2020 5:43 PM  
To: Sia Lagos < >; Scott Tredwell < >  
Cc: PID <PID@apsc.gov.au>  
Subject: PRIVATE AND CONFIDENTIAL [SEC=OFFICIAL:Sensitive]

Caution: This is an external email. DO NOT click links or open attachments unless you recognise the sender and know the content is safe.

**OFFICIAL:Sensitive**

Dear Ms Lagos and Mr Tredwell,

Thank you for your emails of 18 September 2020, provided in response to my email of 10 September 2020 regarding a public interest disclosure (PID) under the *Public Interest Disclosure Act 2013* (PID Act) about recruitment practices at the Federal Court of Australia. As you will recall from my previous email, the PID was assessed and allocated to the Australian Public Service Commission by the Commonwealth Ombudsman in accordance with section 43 of the PID Act. I hold a delegation under section 77 of the PID Act to conduct the PID investigation. In accordance with section 53(2) of the PID Act, I am authorised to obtain information and make inquiries as I see fit. Subsection 61(1) of the PID Act requires public officials to use their best endeavours to assist the principal officer (or, in this case, their delegate) to conduct an investigation under Part 3 of the PID Act.

On this basis, I seek your assistance in providing information about the following:

*Gazettal of engagements*

- Could you please confirm that the engagements of Matthew Benter, Susan O'Connor and Claire Gitsham were gazetted, and provide me with a copy of relevant gazettal notices?

*Appointment of National Judicial Registrars*

- I understand from the material provided that a "National Judicial Registrar" in your agency can be either an SESB1 or an EL2. Is there a role scope document, or another equivalent document, that outlines that this position can be at either level, and/or clarifies the distinction between an SES Band 1 National Judicial Registrar and an EL2 National Judicial Registrar? Has it been communicated internally to your staff that this role can be at either an SESB1 or an EL2 level and, if so, could you please provide me with any relevant communication, e.g. an all-staff email or internal organisational chart that makes this clear?

I would be grateful for response by close of business **27 October 2020**. Please let me know if this timeframe poses any difficulties for you.

I remind you that under the PID Act it is an offence to take reprisal action against any person on the basis that they or any other person made, or may have made, a disclosure under the PID Act, or to reveal the identity of a discloser. Given this and the sensitive nature of PID investigations, I would therefore appreciate your ongoing discretion in actioning this request, and ask that this correspondence, and all information relating to this PID investigation, is treated on a confidential and need-to-know basis only.

If you would like clarity about any of the information I have requested, please contact me on 02 or at [pid@apsc.gov.au](mailto:pid@apsc.gov.au).

Regards  
Kate

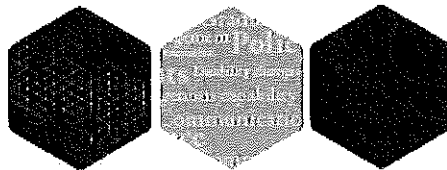
**Kate McMullan**  
Director, Integrity

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**Australian Public Service Commission**

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600  
GPO Box 3176 CANBERRA ACT 2601

t: 02 w: [www.apsc.gov.au](http://www.apsc.gov.au)



*I acknowledge the traditional owners of the Nations throughout Australia, and their continuing connection to land, sea and community. I pay my respects to the many cultures of all elders past, present and into the future.*

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